

RECEIVED  
CENTRAL FAX CENTER

SEP 13 2007

REMARKS

This Amendment And Request For Reconsideration is filed in response to the Office Action mailed on 13 June 2007 for the subject patent application. In the present Amendment, the Applicants amend claims 1, 11, and 21; no claims have been added or canceled. No new matter has been entered; the claim amendments are supported by the application as originally filed.

*In the Office Action of 13 June 2007, the Examiner rejected claims of the present application under 35 U.S.C. § 102(e) as being anticipated by and obvious in view of Islam et al. (U.S. Patent Application Publication No. 2006/0104211 A1). In response, the Applicants respectfully disagree with the Examiner's rejections and submit that all pending claims are allowable over the prior art of record for at least the following reasons.*

For proper rejections under 35 U.S.C. § 102(e) and § 103(a), the prior art must teach or suggest each and every limitation of the claims. In the present case, the prior art utilized in the claim rejections fails to teach or suggest each and every limitation of the claims.

In particular, such prior art fails to explicitly teach or suggest a flow control process of a wireless communication network. A "flow control process" is a term of art of which one ordinarily skilled in the art would readily appreciate. A flow control process of a wireless communication network is operative to terminate data communication to a mobile station based on detection of an out-of-coverage condition between the mobile station and the wireless communication network.

In the rejection of claims (e.g. claim 1), the Examiner states that:

Regarding claim 1, Islam teaches identifying an indication which indicates whether a mobile station utilizes an always-on connection for a data service provided through the wireless communication network (page 2, paragraph 27; also described on page 3, paragraph 34); causing the flow control process to be bypassed for the mobile station based on the indication indicating that the mobile station utilizes the always-on connection (page 4, paragraph 49); and otherwise, causing the flow control

process to be performed for the mobile station (page 4, paragraph 50 to page 5, paragraph 51).

See the Office Action on page 2. In the cited reference, however, there is no explicit reference made to a “flow control process” or similar process, and there is no functional description corresponding to the same either.

As apparent, the Examiner appears to ignore the meaning and the basic limitations associated with a “flow control process” of a wireless communication network. If the Examiner is broadly interpreting the meaning of “flow control process” to be different from how one ordinarily skilled in the art would interpret such terminology, the Applicants respectfully submit that such interpretation is unreasonable. If the Examiner is implicitly arguing that a “flow control process” is inherent in the prior art, the Examiner has failed to articulate any reasoning for any such inherency in order to properly establish a *prima facie* case of anticipation or obviousness.

Even more specifically with respect to such limitation, the prior art utilized in the rejections further fails to teach or suggest the step of “*causing the flow control process to be bypassed* for the mobile station based on the indication indicating that the mobile station or the application thereof utilizes the always-on connection for the data service” and the other step of “*otherwise allowing the flow control process to be performed* for the mobile station based on the indication indicating that the mobile station or the application thereof fails to utilize the always-on connection.”

Based on the above, all pending claims are allowable over the prior art of record. Other reasons for allowability of the independent and dependent claims are apparent to those of ordinary skill in the art, but not articulated herein due to the already-provided reasons for allowability.

Finally, the Applicant submits that U.S. Patent Application Publication No. US2006/010422 A1 does not qualify as prior art for any obviousness rejection under 35 U.S.C. § 103(a). Under 35 U.S.C. § 103(c), such prior art shall not preclude patentability where the subject matter of the reference and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

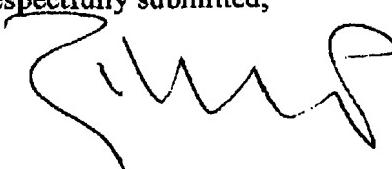
In the present case, the subject matter of US2006/010422 A1 and the claimed invention were owned by the same person or subject to an obligation of assignment to the same person at the time the claimed invention was made. Specifically, the present application was filed on 27 February 2004 and claims priority to a U.S. provisional application filed on 09 February 2004. The present application was assigned from Willey et al. (i.e. all inventors of the present application) to Research In Motion Limited no later than 16 April 2004. The claimed invention of the present application was subject to an obligation of such assignment to Research In Motion Limited at the time the claimed invention was made. In addition, a patent application having Application No. 10/533,957 and associated with US2006/0030299 A1 was assigned to Research In Motion Limited no later than 25 April 2005. The patent application 10/533,957 was a National Stage filing of a PCT application filed on 23 June 2003, which was based on an earlier filed U.S. provisional patent application 60/423,355 filed on 04 November 2002. The patent application having Application No. 10/533,957 and associated with US2006/0030299 A1 was assigned or subject to an obligation to assignment to Research In Motion Limited at the time the claimed invention was made. Further evidence of such assignment or obligation to assign will be provided upon request if needed.

Thus, under 35 U.S.C. § 103(c), U.S. Patent Application Publication No. US2006/01042211 A1 does not qualify as prior art for any present or future obviousness rejection under 35 U.S.C. § 103(a).

Based on the above, the Applicants respectfully submit that all pending claims are novel and non-obvious over the prior art of record. The Applicants respectfully request the Examiner to withdraw all claim rejections and allow the application as is appropriate.

Thank you. The Examiner is welcome to contact the undersigned if necessary to expedite prosecution of the present application.

Respectfully submitted,



JOHN J. OSKOREP

Reg. No. 41,234

Date: 13 September 2007

JOHN J. OSKOREP, ESQ. LLC  
ONE MAGNIFICENT MILE CENTER  
980 N. MICHIGAN AVENUE, SUITE 1400  
CHICAGO, ILLINOIS 60611 USA

Telephone: (312) 222-1860 Fax: (312) 475-1850